

Representative Gage Froerer proposes the following substitute bill:

CHILD CARE LICENSING MODIFICATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to the Utah Child Care Licensing Act.

Highlighted Provisions:

This bill:

- ▶ modifies the criminal background check requirements under the Utah Child Care Licensing Act related to nonviolent drug offenses that occurred 10 or more years before a criminal background check; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-39-404, as last amended by Laws of Utah 2015, Chapter 220

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-39-404** is amended to read:



26 **26-39-404. Disqualified individuals -- Criminal history checks -- Payment of**
27 **costs.**

28 (1) (a) Each exempt provider and each person requesting a residential certificate or to
29 be licensed or to renew a license under this chapter shall submit to the department the name
30 and other identifying information, which shall include fingerprints, of existing, new, and
31 proposed:

- 32 (i) owners;
- 33 (ii) directors;
- 34 (iii) members of the governing body;
- 35 (iv) employees;
- 36 (v) providers of care;
- 37 (vi) volunteers, except parents of children enrolled in the programs; and
- 38 (vii) all adults residing in a residence where child care is provided.

39 (b) A person seeking renewal of a residential certificate or license under this section is
40 not required to submit fingerprints of an individual referred to in Subsections (1)(a)(i) through
41 (vi), if:

42 (i) the individual has resided in Utah for the last five years and applied for a certificate
43 or license before July 1, 2013;

44 (ii) the individual has:

45 (A) previously submitted fingerprints under this section for a national criminal history
46 record check; and

47 (B) resided in Utah continuously since that time; or

48 (iii) as of May 3, 1999, the individual had one of the relationships under Subsection
49 (1)(a) with a child care provider having a residential certificate or licensed under this section
50 and the individual has resided in Utah continuously since that time.

51 (c) (i) The Utah Division of Criminal Investigation and Technical Services within the
52 Department of Public Safety shall process the information required under Subsection (1)(a) to
53 determine whether the individual has been convicted of any crime.

54 (ii) The Utah Division of Criminal Investigation and Technical Services shall submit
55 fingerprints required under Subsection (1)(a) to the FBI for a national criminal history record
56 check.

57 (iii) A person required to submit information to the department under Subsection (1)
58 shall pay the cost of conducting the record check described in this Subsection (1)(c).

59 (2) (a) Each person requesting a residential certificate or to be licensed or to renew a
60 license under this chapter shall submit to the department the name and other identifying
61 information of any person age 12 through 17 who resides in the residence where the child care
62 is provided. The identifying information required for a person age 12 through 17 does not
63 include fingerprints.

64 (b) The department shall access the juvenile court records to determine whether a
65 person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of
66 committing an act which if committed by an adult would be a felony or misdemeanor if:

67 (i) the person described in Subsection (1) is under the age of 28; or

68 (ii) the person described in Subsection (1) is:

69 (A) over the age of 28; and

70 (B) has been convicted, has pleaded no contest, or is currently subject to a plea in
71 abeyance or diversion agreement for a felony or misdemeanor.

72 (3) Except as provided in [~~Subsection (4)~~] Subsections (4 and (5)), a licensee under this
73 chapter or an exempt provider may not permit a person who has been convicted, has pleaded no
74 contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or
75 misdemeanor, or if the provisions of Subsection (2)(b) apply, who has been adjudicated in
76 juvenile court of committing an act which if committed by an adult would be a felony or a
77 misdemeanor, to:

78 (a) provide child care;

79 (b) provide volunteer services for a child care program or an exempt provider;

80 (c) reside at the premises where child care is provided; or

81 (d) function as an owner, director, or member of the governing body of a child care
82 program or an exempt provider.

83 (4) (a) The department may, by rule, exempt the following from the restrictions of
84 Subsection (3):

85 (i) specific misdemeanors; and

86 (ii) specific acts adjudicated in juvenile court, which if committed by an adult would be
87 misdemeanors.

88 (b) In accordance with criteria established by rule, the executive director may consider
89 and exempt individual cases involving misdemeanors, not otherwise exempt under Subsection
90 (4)(a) from the restrictions of Subsection (3).

91 (5) The restrictions of Subsection (3) do not apply to the following:

92 (a) a conviction or plea of no contest to any nonviolent drug offense that occurred on a
93 date 10 years or more before the date of the criminal history check described in this section; or

94 (b) if the provisions of Subsection (2)(b) apply, to any nonviolent drug offense
95 adjudicated in juvenile court on a date 10 years or more before the date of the criminal history
96 check described in this section.